

**REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**EXECUTIVE OFFICER SUMMARY REPORT
SEPTEMBER 8, 2021**

ITEM 5

SUBJECT

New Waste Discharge Requirements: Waste Discharge Requirements for the City of San Diego Maple Canyon Project, Phase 2: Stream Restoration and Rehabilitation, San Diego County (Tentative Order No. R9-2021-0169). (*Jill Harris*)

STAFF RECOMMENDATION

Adoption of Tentative Order No. R9-2021-0169 (Tentative Order) is recommended.

KEY ISSUE

The Tentative Order (**Supporting Document No. 1**) authorizes the discharge of fill material resulting in temporary impacts to 0.32 acres (2692 linear feet) and permanent impacts to 0.007 acres (63 linear feet and 619 cubic yards) of ephemeral streambed waters of the State of California (State) attributed to the Maple Canyon Project, Phase 2 (Project). The Project will create approximately 1 acre of waters of the State and reduce the erosion and flooding in Maple Canyon and the surrounding neighborhood.

PRACTICAL VISION

The Tentative Order implements the San Diego Water Board's Practical Vision, entitled *Healthy Waters, Healthy People*,¹ by ensuring the Project avoids and minimizes, to the maximum extent practical, impacts to waters of the State. The waste discharge requirements require the best practicable treatment and control of discharges to ensure and verify that the highest level of water quality is maintained consistent with the maximum benefit to the people of the State. The Project would restore an urban stream system, improving water quality and creating habitat. Thus, the Tentative Order supports the goal of the Recovery of Stream, Wetlands and Riparian Systems chapter of the Practical Vision by preventing the degradation, and promoting the restoration, of the stream and riparian system.

DISCUSSION

The goal of the Project is to eliminate severe erosion in Maple Canyon and flooding of the downstream street and neighborhood. To achieve this, the City of San Diego (Discharger) would lay back the walls of the main channel and tributaries to create shallower slopes, remove non-native invasive vegetation and replant with native species to reduce erosion, and install 23 drop structures in the main channel to slow the flow of water to non-erosive velocities. These activities would shorten the length and increase the area of stream and riparian habitat: the length would decrease from 2,755 to 2,610 feet, and the area of waters of the State would increase by approximately 1 acre. The Discharger proposes the discharge of fill material resulting in temporary impacts to 0.007 acre (63 linear feet and 619 cubic yards) and permanent impacts to 0.32 acres (2692 linear feet) of Maple Canyon

¹ Practical Vision: https://www.waterboards.ca.gov/sandiego/water_issues/programs/practical_vision/

Stream.

The Project is located in Maple Canyon west of Balboa Park, between Redwood Street and West Maple Street in the City of San Diego, San Diego County (**Supporting Document No. 2**). Maple Canyon Stream is a tributary to San Diego Bay and an ephemeral streambed water of the State in the Lindbergh Hydrologic Subarea (HSA 908.21), San Diego Mesa Hydrologic Area, Pueblo San Diego Hydrologic Unit.

These activities comprise Phase 2 of the Project. Phase 1, to be authorized under a separate order establishing waste discharge requirements (Tentative Order No. R9-2021-0168 and Item 4 on today's agenda), would replace all storm drains in the canyon and add concrete energy dissipators and riprap to reduce the velocity of water entering the canyon.

The Discharger applied for waste discharge requirements to construct the Project on February 3, 2021. Additional information was subsequently received, and the application was deemed complete on May 21, 2021.

Compensatory Mitigation

No compensatory mitigation will be required because the Project would create and restore at least 2.89 acres of waters of the State, comprising streambed and riparian habitat. This is a net increase in quantity, quality, and beneficial uses of waters of the State. The Discharger is voluntarily undertaking a restoration project for the purpose of controlling flooding, assisting the recovery of an aquatic ecosystem, and enhancing beneficial uses, in lieu of other possible alternatives such as hardscaping or routing the stream underground.

Tentative Order

Tentative Order No. R9-2021-0169 will, if adopted, serve as waste discharge requirements (WDR)² for the discharge of fill material attributable to the Project to waters of the State. The Tentative Order authorizes unavoidable direct impacts, attributed to the Project, to an ephemeral streambed.

The San Diego Water Board typically relies upon its authority under Clean Water Act (CWA) section 401 to regulate discharges of dredged or fill material to waters of the United States and/or State through the issuance of water quality certifications. The San Diego Water Board has delegated this function to the Executive Officer and the issuance of water quality certifications is not typically scheduled for consideration by the Board unless the project is very large or controversial. However, the United States Army Corps of Engineers has determined that no waters of United States are present within the Project's impact area. Therefore, the Project discharges are to waters of the State outside of CWA jurisdiction and the water quality certification regulatory process does not apply. The San Diego Water Board is relying upon its authority under the Porter-Cologne Water Quality Control Act to regulate Project discharges under WDRs and Board action is required to consider adoption of the Tentative Order.

² Pursuant to Water Code section 13260 et. seq.

PUBLIC NOTICE AND COMMENTS RECEIVED

The Tentative Order was noticed, provided to the Discharger and other interested parties, and released for public review and comment on July 16, 2021, with comments due by August 16, 2021. The Notice of Public Hearing and Opportunity to Comment (Notice) and the Tentative Order were posted on the San Diego Water Board website for the duration of the 30-day comment period. The Notice announced availability of the Tentative Order for review, a public hearing to be held on September 8, 2021, and provided instructions for submittal of written comments (**Supporting Document No. 3**). Notice of the public hearing on the Tentative Order was also provided in the Meeting Notice and Agenda for the September 8, 2021 Board meeting which is posted on the San Diego Water Board website.

The San Diego Water Board received one timely comment letter, dated August 16, 2021, from Mayra Medel of the City of San Diego (Discharger). The letter requested minor changes to the Tentative Order pertaining to: (1) the date of the approved jurisdictional delineation from the U.S. Army Corps of Engineers; (2) the estimated cost of monitoring and reporting; (3) the Lead Agency's compliance with CEQA requirements under a consistency memo instead of an exemption; and (4) a typographical error that switched the titles of Tables 5 and 6.

The Tentative Order (**Supporting Document No. 1**) was revised to address these comments and displays the changes in red underline for added text and ~~red-strikeout~~ for deleted text.

SUPPORTING DOCUMENTS

1. Tentative Order No. R9-2021-0169
2. Tentative Order No. R9-2021-0169 Attachment A: Project Site and Location Maps
3. Notice of Public Hearing and Opportunity to Comment issued July 16, 2021